



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Ms. Detra Hill
Assistant City Attorney
Supervisor, Criminal and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR95-866

Dear Ms. Hill:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33689.

The City of Dallas (the "city") received a request for "all reports, photos, supplemental reports, regarding the death of Angela McDonald" You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you have claimed and have reviewed the documents at issue.

Section 552.108 excepts from disclosure:

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.

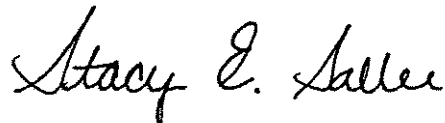
When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. See generally *Houston Chronicle Publishing Co. v. City of Houston*, 531

S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." See *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986).

The documents indicate that the investigation of this particular offense has been suspended. In a previous decision, this office has held that if the statute of limitation has not expired on the offense, all but the information held to be public in Open Records Decision No. 127 (1976) could be withheld in a suspended case. Open Records Decision No. 408 (1984) at 7. The rationale for this conclusion was that release of the remaining information "would clearly jeopardize the investigation if it is once again initiated, as it may well be." *Id.* An indictment for murder may be brought at any time. Code Crim. Proc. art. 12.01(1). Therefore, limitations has not run on this particular offense. Consequently, the city may withhold all but the information generally found on the first page of an offense report.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Government Section

SES/KHG/rho

Ref.: ID# 33689

Enclosures: Submitted documents

cc: Mr. Monty Drake
5307 E. Mockingbird Lane
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(w/o enclosures)